BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
W, D.C. 20554

In the Matter of Rural Health Care Support Mechanism	WC Docket No. 02-60

COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION AND THE PEOPLE OF THE STATE OF CALIFORNIA

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I. INTRODUCTION AND SUMMARY

The California Public Utilities Commission and the People of the State of California (CPUC or California) commend the Federal Communications Commission (FCC or Commission) for issuing a Notice of Proposed Rulemaking (NPRM) seeking comment on reforms to the universal service Rural Health Care Support Mechanism to expand the reach and use of broadband connectivity for and by public and non-profit health care providers.[1] The FCC's proposed reforms are critical to providing access to state-of-the art health IT solutions to hospitals and clinics across the nation, particularly in rural areas through telemedicine, with the support of dedicated networks capable of connecting to the Internet.

In general, California supports the following proposals: (1) the use of state maps and federal maps for verification of broadband availability; (2) the expansion of the "eligible health care provider" definition to include, among other entities, skilled nursing facilities and renal dialysis centers and facilities; and (3) adoption of a 50 percent discount on monthly recurring costs for broadband connectivity.

Additionally, California recommends that the 50 percent discount be extended to economically disadvantaged urban health care providers, if funding is underutilized after the first year of the 50 percent discount implementation and the use of a discount matrix mechanism for additional discounting. However, in order not to exceed the FCC's

[1] *In the Matter of Rural Health Care Support Mechanism*, Notice of Proposed Rulemaking, WC Docket 02-60, rel. July 15, 2010 (NPRM).

proposed $300 million funding cap[2], support should be extended to health care facilities in rural areas first, and then to facilities in urban areas prioritized based on financial need.

II. DISCUSSION

A. Health Infrastructure Program -- Use State Maps And Federal Maps For Verification Of Broadband Availability.

The NPRM lays out the framework for the development of a "health infrastructure program to fund up to 85 percent of eligible costs for design, construction and deployment of dedicated broadband networks that connect public or non-profit health care providers in areas of the country where the existing broadband infrastructure is inadequate."[3] The NPRM seeks comment on each step of the project process.

The FCC proposes applicants "demonstrate that broadband adequate to meet their health care needs is unavailable or insufficient in the geographic area where health care providers are to be connected by the proposed dedicated network."[4] It further proposes that applicants "[p]rovide copies or linked references to recognized broadband mapping studies, such as NTIA's national broadband map, state or local broadband maps."[5] California supports both of these proposals.

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[2] NPRM, para. 128-130. The current aggregate annual cap for the Rural Health Care Support Mechanism is $400 million. The FCC proposes to set an initial cap of $100 million for the new Health Infrastructure Program and $300 for the Telecommunications Program and the Health Broadband Services Program.

[3] *Id,* paras. 13, 14.

[4] *Id,* para. 22.

[5] *Id.*

The CPUC has been engaged in an ongoing broadband mapping project, funded in large part by an American Recovery and Reinvestment Act grant issued through the National Telecommunications Information and Administration. The broadband availability data gathered by California, and the state and national maps generated based on this data, will be an invaluable tool for Health Infrastructure Program applicants seeking to demonstrate a need for broadband networks in their geographic areas. Furthermore, state and federal maps represent an independent check of the availability of broadband in the applicant's proposed areas. Finally, maps provide applicants and application reviewers with a clear visual representation of an applicant's need, or lack of need, for broadband.[6]

B. Health Broadband Services Program

1. Adopt a 50 Percent Discount on Monthly Recurring Costs for Broadband Connectivity.

The Rural Health Care Support Mechanism (RHCSM), which is comprised of the Telecommunications Program, Internet Access Program, and Rural Health Care Pilot Program, is underutilized, as noted in the NPRM and National Broadband Plan.[7] For fiscal year 2009, disbursements for the Telecommunications and Internet Access Programs were $60.7 million,[8] and the Rural Health Care Pilot Program had an annual

[6] The State and federal broadband inventory maps show broadband availability in a geographic area by speed tier and technology type. To the extent that other factors beside speed are important to determine whether broadband is available to a health care provider "to meet their needs", e.g., quality service, repair intervals, or price, such factors cannot be determined by these maps alone.

[7] NPRM, paras. 92, 11.

[8] *Id*, para. 9.

budget of $139 million.[9] Hence, total RHCSM disbursements fall significantly short, approximately 50 percent short, of the $400 million cap.

As part of the strategy to address that underutilization, the NPRM proposes to replace the existing Internet Access Program, which has a 25 percent discount rate, with a new Health Broadband Services Program that would subsidize 50 percent of an eligible rural health care provider's monthly recurring costs for any advanced telecommunications and information services that provide point-to-point broadband connectivity, including Dedicated Internet Access. The FCC seeks comments on whether an appropriate first step should be to focus on rural areas, given the particular challenges that rural communities often face in obtaining access to health care.[10]

California generally supports the FCC's proposal to increase the discount rate from 25 percent to 50 percent for monthly recurring costs for broadband connectivity in rural areas. The higher 50 percent discount rate will likely stimulate demand[11] for broadband services and promote participation in the new Health Broadband Services Program, since the net costs to rural health care providers will be reduced.

The potential impact of the higher 50 percent discount rate on program participation may be gleaned from the Telecommunications Program. In 2008, the

[9] *Id,* para. 128.

[10] *Id*, para. 93.

Telecommunications Program, with an average discount rate of 60 percent,[12] disbursed $45 million, compared with the $1.4 million[13] disbursed by the Internet Access Program, with only a 25 percent discount. Thus, doubling the discount rate to 50 percent would likely substantially increase utilization of broadband services and participation in the new Health Broadband Services Program. The higher 50 percent discount would also increase the health care provider's purchasing power. With a more robust budget, the health care provider would be able to procure additional services to serve more patients.

The California Teleconnect Fund (CTF) program has been providing a 50 percent discount on select telecommunications and Internet access services to qualifying government-owned hospitals and health clinics, non-profit community-based organizations (CBOs) offering health care, schools, libraries, and most recently, community colleges, regardless of geographic location. During the last 18 months, California approved 363 CTF applications from CBO health care entities alone. Thus, a 50 percent discount on monthly recurring costs from the RHCSM would not only complement the CTF program, but would also make broadband connectivity more affordable for health care institutions.

[12] The Telecommunications Program provides a discount amount equal to the difference between the rural rate and urban rate for a similar service. The average dollar discount, on a percentage basis, is approximately 60 percent. NPRM, para. 106.

[13] *Id,* para.9

2. Apply the 50 percent discount to economically disadvantaged urban health care providers, after one year of underutilized rural health care funding.

Although the NPRM proposes to provide funding to rural health care facilities only, California recommends that if funding under the new Health Broadband Services Program is underutilized after one year of implementation, then the Commission should consider providing support to urban health care facilities based on their financial need. Eligible urban health care facilities would not be able to take advantage of state-of-the-art health care resources without this funding.

Some clinics and hospitals in urban areas provide health care services to indigent individuals, for which they may receive little or no compensation. These facilities might not be able to stay in business and provide treatment to patients if they do not carefully manage their expenses, particularly during these difficult economic times. Underfunded urban health providers may opt for a less-costly, lower-speed broadband connectivity that is inadequate to obtain access to live video feeds that enable intensive care physicians to monitor their critically-ill patients at multiple locations. Thus, to align these facilities with financially stronger health care facilities to utilize state-of-the-art IT solutions, the 50 percent discount should be extended to urban health care facilities with insufficient financial resources.

Moreover, broadband inadequacy exists in urban areas. In fact, the State of New York has attested that populations unserved and underserved by broadband are not

necessarily located in rural areas.[14] The FCC itself recognized this situation when it proposed the Health Infrastructure Program, which would fund broadband facilities independent of location.[15] Therefore, extending the 50 percent discount for broadband service to urban health care providers would complement the new Health Infrastructure Program (HIP). This would occur because health providers will also need advanced telecommunications and Internet access services to effectively operate their new HIP-funded broadband facilities; and assist them in maximizing the use of their new facilities.

In addition, broadband services would not only allow health care providers to be connected to long distance specialists but would also allow for the delivery of more efficient and better quality health care.[16] Because of the higher density of urban populations, providing broadband-based telemedicine is likely to be even more cost–effective on a per capita basis in urban areas than in rural areas. Therefore, extending the 50 percent support to urban health care providers would allow them to use innovative technologies to more effectively and efficiently diagnose and treat patients, thereby maintaining better control over rising health care costs.

3. Apply additional discounts for the economically disadvantaged health care facilities.

Despite the 50 percent discount on monthly recurring costs, some health care providers may still not be able to afford to subscribe to higher bandwidth necessary to

[14] Comments of the State of New York, *In the Matter of a National Broadband Plan for our Future*, Public Notice #17, WC Docket No. 09-51, filed December 4, 2009, at 12.

[15] NPRM, para.13.

[16] National Broadband Plan, pp 200-201.

employ health IT applications for telehealth and E-care. Thus, California recommends that the FCC consider utilizing a discounting matrix system similar to that used by Universal Service Administrative Corporation (USAC) for schools and libraries. This discount is based on the number of students that participate in the free or reduced lunch program within the district. Perhaps the poverty level within the community or profitability of the hospital or clinic could be used as a basis for providing an additional percentage discount amount. This matrix would be likely to increase participation by health care providers in the Health Broadband Services Program.

C. Eligible Health Care Providers -- Expand The Definition Of "Eligible Health Care Provider" To Include Entities, Such As Skilled Nursing Facilities And Renal Dialysis Centers And Facilities That Offer Services Traditionally Provided At Hospitals.

The NPRM seeks comment on expanding the FCC's interpretation of "eligible health care provider" to include health care facilities that offer services traditionally provided at hospitals, such as skilled nursing facilities and renal dialysis centers and facilities, and administrative offices and data centers that do not share the same building as the clinical offices of a health care provider but perform support functions critical for the provisions of health care.[17]

California supports the FCC's proposal to extend funding eligibility to skilled nursing facilities and renal dialysis centers and facilities. Since health costs are already

[17] NPRM, para. 3.

17 percent of the U.S. Gross Domestic Product[18] and likely to increase with an aging population, the use of lower cost alternatives is an important tool for controlling overall health care costs. As the NPRM notes, the number of acute care facilities has decreased and many services provided by hospitals "are increasingly performed at non-acute and post-acute facilities." With the aid of telemedicine, patients at these facilities can receive the same or a similar level of service as that provided at hospitals.[19] Funding the broadband needs of skilled nursing and renal dialysis centers and facilities will allow these entities to leverage their limited budgets to serve more patients at a lower cost, increase their sustainability, and contribute to the national effort to reduce health care costs.

The NPRM's proposal to include skilled nursing facilities and renal dialysis centers and facilities is consistent with the CPUC's administration of the CTF program. The CTF program provides discounts on select telecommunications and Internet access services to 2,360 non-profit community-based organizations, which include entities offering health care services traditionally received at hospitals. Therefore, these facilities would benefit from an expansion of the eligible health care provider definition.

[18] *Id,* Footnote 1.

[19] *Id*, para. 123.

D. Annual Cap and Prioritization

In the NPRM, the FCC seeks comment on alternative proposals to prioritize funding for the Health Broadband Services Program if funding limits are reached.[20]

California realizes that our proposals (1) to extend the 50 percent discount on monthly recurring costs for broadband subscription to urban health care facilities based on economic need and (2) to use a discounting matrix similar to that used by USAC for schools and libraries for additional support may result in increased requests which in total exceed the funding cap.[21] To mitigate this concern, California recommends that the FCC set parameters or prioritization criteria, as discussed below, that will keep the funding level at or below the cap.

If the program is extended to urban facilities and/or if funding requests exceed available funds, funding should first be given to health care facilities in rural areas, and then to facilities in urban areas prioritized based on financial need, e.g., low net income generated by the facility. In that case, the FCC's goal to provide priority funding to rural health care facilities would be met, and patients in medically underserved communities could receive health care locally and have access to state-of-the art diagnostic tools typically available only in the largest and most sophisticated urban medical centers. Moreover, if funding from this program were also extended to urban health care providers with inadequate financial resources then these urban health providers would be

[20] NPRM, para. 130.

[21] The NPRM proposes a $300 million cap for both the HBSP and the Telecommunications Program, NPRM, para. 129

able to provide similar services to some of the most economically disadvantaged citizens in metropolitan areas.

III. CONCLUSION

In light of the above discussion, California recommends that, if the Commission creates the Health Infrastructure Program, the FCC adopt its proposal to use established mapping studies to determine broadband inadequacy under the Program. With regards to the proposed new Health Broadband Services Program, California recommends that the FCC: (1) increase the discount to 50 percent of monthly recurring charges for broadband Internet access connectivity; (2) provide the 50 percent discount to urban health care providers based on financial need, to the extent the new Program is underutilized after one year of implementation; (3) utilize a discount matrix mechanism to provide additional discounts to make broadband connectivity more affordable to those facilities with insufficient financial resources; and (4) prioritize funding under the Program so that rural health care providers are funded first and urban providers are funded based on their economic need, in the event that total requests exceed the funding cap. Finally, California also supports the expansion of the definition of "eligible health care provider" to include skilled nursing and renal dialysis centers and facilities.

Respectfully submitted,

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